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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,191	06/19/2001	Judd Zebersky	GLM-RS5	2821

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LERNER AND GREENBERG, P.A.  
POST OFFICE BOX 2480  
HOLLYWOOD, FL 33022-2480

EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/884,191

Applicant(s)

ZEBERSKY, JUDD

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-12, 16-22, 26, 27, 29, 36, 38-42, 44 and 60-95 is/are rejected.
- 7) ☒ Claim(s) 7, 13-15, 23-25, 28, 30-35, 37, 43 and 45-58 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 65-95 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 65 and 90-95, it is unclear to the examiner how the first and second fixed supporting structures are connected to each other. For example only, how is the solid floor of the first fixed supporting structure connected to the solid floor of the second fixed supporting structure.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8, 17, 38-40, 42 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Leake.

Leake teaches in figures 1-15 a modular house toy comprising a solid floor (7,18), a solid ceiling (17), a solid back wall (19) and an open arch (16) configured as claimed.

Regarding claims 39 and 40, Leake further teaches a solid window and a window shutter as shown in figure 1.

Regarding claims 8, 17, 38 and 42, Leake further teaches a one-piece injection molded arch, back wall and ceiling as seen in figure 1.

Regarding claim 44, Leake further teaches an arch with a post having a bore in figure 6 and col. 2, lines 1-9.

Claims 1-6, 9, 10, 11, 12, 16, 17, 20-22, 26, 27, 29, 36, 38, 40-42, 59, 60-68, 75, 76, 79, 80, 84 and 90-95 are rejected under 35 U.S.C. 102(b) as being anticipated by Gonzalez.

Regarding claims 1-4, 3, 59, 60, 65, 66, 68, 90 and 91 Gonzalez teaches in figures 1-11 a modular house toy comprising a solid floor (fig.6), a solid ceiling (fig.6), a solid back wall (fig. 6), and an open arch (40) where the back wall connects the floor and ceiling in a first vertical plane and the arch connects the floor to the ceiling in a second vertical plane as seen in figure 1 and figure 6.

Regarding claims 5 and 67, Gonzalez further teaches floor depressions (60), ceiling depressions (fig.10), wall extensions (24) and arch extensions (65) where the extensions are inserted in the depressions.

Regarding claim 6, Gonzalez further teaches four floor and ceiling depressions, two upper wall extensions, two upper arch extensions, two lower arch extensions where the extensions are inserted in the depressions as shown in figure 6.

Regarding claim 9, Gonzalez further teaches a square shape floor in figure 6.

Regarding claim 10, Gonzalez further teaches four top side corners of the floor depression as seen figure 6.

Regarding claims 11, 21 and 29, Gonzalez further teaches that the floor and ceiling has a top side and four side walls formed with the top side as seen in figure 7.

Regarding claims 12, 16, 22 and 27, Gonzalez further teaches that the floor and ceiling having four side wall where the walls have a cavity and a projection staggered around the four sides of the wall as seen in marked up copy figure 6.

Regarding claim 20, Gonzalez further teaches the ceiling having four bottom side corners where one of the depressions is disposed therein in figure 7.

Regarding claim 26, Gonzalez further teaches that floor and ceiling depressions are identical as seen in figure 6.

Regarding claim 41, Gonzalez further teaches an upside down U shaped arch in figure 6.

Regarding claims 8, 17, 38 and 42, Gonzalez further teaches a one-piece injection molded arch, back wall and ceiling as seen in figure 6 and 11.

Regarding claims 61-64 and 92-95, as best understood, Gonzalez teaches in the figures a modular toy house comprising a solid floor with depressions (fig.6), a solid ceiling with depressions (fig.6), a solid back wall and an open arch with extensions where the extensions are inserted within the depression as seen in figure 6.

Regarding claim 75, Gonzalez further teaches a plurality of fixed supporting structures removably connected to another plurality of fixed supporting structures (see marked copy (fig. 11)).

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Regarding claim 76, Gonzalez further teaches a cube first and second fixed supporting structure as shown in marked up copy of figure 11.

Regarding claims 79, 80 and 84, Gonzalez further teaches that the ceiling has a top side with a connector having a flange and the floor having a bottom side as seen in figures 6 and 11.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez.

Gonzalez teaches in the figures most of the claimed invention. Regarding claim 18, Gonzalez fails to teach a square shapes ceiling. Gonzalez teaches in figure 6 a ceiling portion 30 having a particular shape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a square shape ceiling to the device of Gonzalez for the purpose of providing a different style and/or appearance for the toy house.

***Allowable Subject Matter***

Claims 7, 13-15, 23-25, 28, 30-35, 37, 43 and 45-58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

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independent form including all of the limitations of the base claim and any intervening claims.

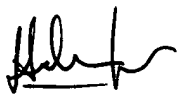
Claims 69-74, 77, 78, 81-83 and 85-89 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Norfleet teaches a model building. Troiel teaches a building block. Ace teaches a convertible doll house. Chase teaches a toy building.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

bbm  
August 22, 2002

  
Jacob K. Ackun  
Primary Examiner

